

United States Department of Agriculture
Research, Education, and Economics

ARS □ CSREES □ ERS □ NASS

Policies and Procedures

Title: Political Activity

Number: 461.2

Date: 9/7/93

Originating Office: Personnel Division
Labor and Employee Relations Branch

This Replaces: 461.2 dated 3/31/81

Distribution: All Employees

This Directive describes permissible and prohibited activities and lists the localities where residents are exempt from the political restrictions of the Hatch Act.

Table Of Contents

1. Reference	3
2. Abbreviations	3
3. Definitions	3
4. Authorities	4
5. Policy	4
6. Responsibilities	7
7. Coverage	8
8. Conditions to be Observed by Employees Residing in Municipalities or Political Subdivisions Listed in Exhibit 1	8
9. Penalties For Violation	8
10. Reporting Violations	10

1. Reference

For information on: Employment of Experts, Consultants, and Advisory Committee Members, see DIRECTIVE 417.2

2. Abbreviations

- CFR - Code of Federal Regulations
- LERB - Labor and Employee Relations Branch
- MSPB - Merit Systems Protection Board
- OP - Office of Personnel
- OPM - Office of Personnel Management
- OSC - Office of Special Counsel
- PD - Personnel Division
- U.S.C. - United States Code

3. Definitions

Political party is a National political party, a State political party, and an affiliated organization.

Election includes a primary, special, and general election.

Nonpartisan election is:

- An election at which none of the candidates are to be nominated or elected as representing a political party any of whose candidates for a presidential elector received votes in the last presidential election; and
- An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any questions or issue of a similar character.

Partisan refers to a political party.

Partisan election is an election at which any candidate for an elected office is running as a representative of a political party whose presidential candidate received electoral votes in the last presidential election.

4. Authorities

Restrictions on the activities of Federal employees in local politics are imposed by:

- Chapter 73, Subchapter III, Title 5, U.S.C.
- 5 CFR 733.124
- 18 U.S.C., Sections 210 and 211
- 18 U.S.C., Sections 594 and 595
- 18 U.S.C., Sections 597, 598, 599, 600 and 601
- 18 U.S.C., Sections 604 and 605
- 18 U.S.C., Section 8602
- Section 4.1 of Civil Service Rule IV
- Regulations of OPM.

5. Policy

Permissible Activities. All employees are free to engage in activities to the widest extent consistent with the restrictions in 2 below. Each employee has the right to:

- Register and vote in any election.
- Express his/her opinion as an individual privately and publicly on political subjects and candidates.
- Display a political picture or sticker, or wear a badge or button.
- Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization.
- Be a member of a political party or other political organization and participate in its activities to the extent consistent with the law.
- Attend a political convention, rally, fund-raising function, or other political gathering.
- Sign a political petition as an individual.
- Make a financial contribution to a political party or organization.

- Take an active part, as an independent candidate, or in support of an independent candidate, in a partisan election as covered in 2 c below.
- Take an active part, as a candidate or in support of a candidate, in a nonpartisan election.
- Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character.
- Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law.
- Otherwise participate fully in public affairs, except as prohibited by law as set forth in 2 below, in a manner which does not materially compromise efficiency or integrity as an employee or the neutrality, efficiency, or integrity of ARS.

Prohibited Activities.

- Employees may not use their official authority or influence for the purpose of interfering with or affecting the result of an election.
- Employees may not take an active part in political management, or in a political campaign, except as permitted by 1 above or c and d below. Prohibited activities under this paragraph (2 b) include, but are not limited to:
 - Serving as an officer of a political party, a member of a National, State, or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions.
 - Organizing or reorganizing a political party organization or political club.
 - Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose.
 - Organizing, selling tickets to, promoting, or actively participating in a fund-raising activity of a partisan candidate, political party, or political club.
 - Taking an active part in managing the political campaign of a partisan candidate for public office or political party office.
 - Becoming a partisan candidate for, or campaigning for, an elective public office.

- Soliciting votes in support of or in opposition to a partisan candidate for public office or political party office.
- Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or a candidate in a partisan election.
- Driving voters to the polls on behalf of a political party or a candidate in a partisan election.
- Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, a broadcast, campaign literature, or similar material.
- Serving as a delegate, alternate, or proxy to a political party convention.
- Addressing a convention, caucus, rally, or similar gathering of a political party in support or in opposition to a partisan candidate for public office or political party office.
- Initiating or circulating a partisan nomination petition.
- Soliciting, collecting, or receiving a contribution at or in the Federal workplace from any employee for any political party, political fund, or other partisan recipient;
- Paying a contribution at or in the Federal workplace to any employee who is the employer or employing authority of the person making the contribution for any political party, political fund, or other partisan recipient; and
- Soliciting, paying, collecting, or receiving a contribution at or in the Federal workplace from any employee for any political party, political fund, or other partisan recipient.
- Employees in two categories are exempt from the prohibited activities of F 2 b above:
 - Any employee who resides in a municipality or other political subdivision designated by OPM shown in Exhibit 1. These employees are subject to the two conditions described in Section I below.
 - Any employee who works on an irregular or occasional basis **on the days that he/she performs no Federal service.**
- Two types of elections are partially exempt from the prohibited activities in F 2 b above:

- Nonpartisan elections.
- Elections held in municipalities and other political subdivisions designated by OPM (see Exhibit 1).

6. Responsibilities

LERB will:

- Furnish or obtain information, advice, and assistance for employees in the subject matter area of this DIRECTIVE.
- Notify Designated Area Ethics Advisor of reports from their respective area.
- Forward all reports of alleged violations to the Director of Employee Relations Division, Office of Personnel.

Supervisors will:

- Assure that a copy of this DIRECTIVE is furnished to each employee under their direction.
- Keep a copy of this DIRECTIVE available to employees at all times.
- Inform all new employees of the contents of this DIRECTIVE as a part of their orientation training.
- Refer to LERB any questions which the supervisor is unable to answer.
- Forward promptly to LERB reports about, or knowledge of, violations of the provisions of this DIRECTIVE.

Employees will:

- Acquaint themselves with these regulations. Ignorance of the law and regulations or failure to obtain an advisory opinion as provided in this Section will not excuse a violation.
- Seek information and advice on political activity through their supervisor or LERB.

NOTE: If employees propose to take part in political activities not clearly permitted by these regulations or if they are in doubt as to whether a particular activity is prohibited, they should

submit the facts **in writing** directly to LERB **before** engaging in the activity.

7. Coverage

All employees of ARS.

NOTE: Political activity prohibited to employees is also prohibited to employees working in open or in secret cooperation with others. What employees may not do directly, they cannot do indirectly or through an agency or person chosen by them or subject to their control. Employees may be held accountable for political activity carried on by others for the purpose of accomplishing what the employees may not lawfully do directly. However, employees' spouses and other family members may engage in politics independently on their own initiative and on their own behalf, unless they are also Federal employees.

Experts, consultants, special government employees, and advisory committee members (as defined in DIRECTIVE 417.2) during the 24 hours of any day which they are employed.

8. Conditions to be Observed by Employees Residing in Municipalities or Political Subdivisions Listed in Exhibit 1

Employees residing in one of the municipalities or subdivisions listed in Exhibit 1 may take an active part in political management and political campaigns in connection with partisan elections for local offices of the municipality or political subdivision subject to the following limitations:

- Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.
- Candidacy for, and service in, an elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict of interest.

9. Penalties For Violation

Administrative Action. An employee found by OSC to have violated the U.S. Code must be removed from the Federal service unless OSC and/or MSPB determines that a less severe penalty is justified. The penalty cannot be less than a 30-calendar-day suspension without pay.

Criminal Action.

- **Soliciting or Assessing Political Contributions.**
 - Violations of Title 18 of the U.S. Code dealing with soliciting or assessing political contributions are felonies and are punishable by a fine of not more than \$5,000 or imprisonment for not more than 3 years, or both. [18 U.S.C. §8602]
 - The term "solicit" includes the handing out of campaign pledge cards. The term "contribution" includes any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.
- **Purchase and Sale of Public Office.** Violations of Title 18 of the U.S. Code dealing with paying, promising, or offering to pay money or anything of value to procure any appointive office, or soliciting for that purpose, are punishable by imprisonment of not more than 1 year or fine of not more than \$1,000, or both. [18 U.S.C. §§210 AND 211]
- **Other Criminal Offenses.**
 - The following political activities are criminal offenses by law. The penalty for violation is a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.
 - Intimidating, threatening, coercing voters or attempts to do the same. [18 U.S.C. §594]
 - Using official authority in interfering in a Federal election. [18 U.S.C. §595]
 - Paying or offering to pay any person for voting or refraining from voting, or for voting for or against any candidate. Soliciting, receiving, or accepting payment for one's vote or for withholding one's vote. [18 U.S.C. §597]
 - Using Federal funds appropriated for relief, work relief, or public works so as to interfere with, restrain or coerce any individual in his/her right to vote. [18 U.S.C. §598]
 - Directly or indirectly promising or pledging the appointment, or the use of influence or support for the appointment of any person, to any public or private position or employment for the purpose of procuring political support. [18 U.S.C. §599]
 - Soliciting, assessing, or receiving subscriptions or contributions for political purposes

from anyone on Federal relief or work relief. [18 U.S.C. §604]

- Furnishing, disclosing, or receiving, for political purposes, lists of persons on Federal relief or work relief. [18 U.S.C. §605]
- The penalty for violation is a fine of not more than \$5,000, or imprisonment for not more than 1 year, or both.
 - Intimidating employees to secure political contributions. [18 U.S.C. §606]
 - It shall be unlawful to solicit or receive any contribution in any room or building occupied in the discharge of official duties. [18 U.S.C. §607]
- The penalty for violation is a fine of not more than \$10,000, or imprisonment for not more than 1 year, or both.
 - Promising Federal employment or any benefit from Federal funds in return for political activity or support. [18 U.S.C. §600]
 - Depriving anyone of employment, compensation or any benefit derived from Federal relief or work relief funds on account of race, creed, color, or political activity. [18 U.S.C. §601]

10. Reporting Violations

It is the duty of any employee or person having knowledge of a violation of any of the provisions prohibiting political activity to submit the facts. The following procedures should be followed.

Report the facts to LERB/PD.

LERB will forward reports for further investigation to the Director of Employee Relations Division, Office of Personnel.

OP will forward reports to OSC. (OSC is responsible for investigating reports or complaints concerning Hatch Act violations committed by Federal employees.)

JANE L. GILES
Deputy Administrator
Administrative Management

Exhibit 1 Localities in Which Employee Residents May Engage in Certain Political Activities

LOCALITIES IN WHICH EMPLOYEE RESIDENTS MAY ENGAGE IN CERTAIN POLITICAL ACTIVITIES

In Maryland

Annapolis
Anne Arundel County
Berwyn Heights
Bethesda
Bladensburg
Bowie
Brentwood
Calvert County
Capital Heights
Cheverly
Chevy Chase, Sections 1 and 2
Chevy Chase, Section 3
Chevy Chase, Section 4
Martin's Additions 1, 2, 3, and 4, to
Chevy Chase
Chevy Chase View
College Park
Cottage City
District Heights
Edmonston
Fairmont Heights
Forest Heights
Frederick County
Garrett Park
Glenarden
Glen Echo
Greenbelt
Howard County
Hyattsville
Kensington
Landover Hills
Montgomery County
Morningside
Mount Rainier
New Carrollton
North Beach
North Brentwood
North Chevy Chase
Northwest Park
Prince Georges County
Riverdale

In Virginia

Alexandria
Arlington County
Clifton
Fairfax County
Town of Fairfax
Falls Church
Herndon
Loudon County
Manassas
Manassas Park
Portsmouth
Prince William County
Stafford County
Vienna

Other Municipalities

Anchorage, AK
Benicia, CA
Bremerton, WA
Centerville, GA
Crane, IN
Elmer City, WA
Huachuca City, AZ
New Johnsonville, TN
Norris, TN
Port Orchard, WA
Sierra Vista, AZ
Warner Robins, GA

* - **ADDENDUM REGARDING DISTRICT OF COLUMBIA**

The District of Columbia continues to be listed in the Office of Personnel Management regulations at 5 C.F.R. 733.124 as one of several partially-exempted communities for Hatch Act purposes. (Certain Hatch Act prohibitions are inapplicable to otherwise covered Government employees residing in partially-exempted communities.) Nevertheless, it should be noted that a decision of the United States District Court for the District of Columbia declared this decision invalid. In

Rockville
Seat Pleasant
Somerset
Takoma Park
University Park
Washington Grove

view of this decision, the Office of Special Counsel does not consider the District of Columbia to be a partially exempted community and will regard Federal employees who reside in the District of Columbia to be covered by the Hatch Act.